

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.**

DOCKET NO. 9407

**COMPLAINT COUNSEL'S EXPEDITED MOTION FOR
DISCOVERY SANCTIONS AGAINST HOMEADVISOR, INC.**

For months, Respondent HomeAdvisor, Inc. (“HomeAdvisor”) has evaded its basic discovery obligations by resisting production of relevant sales call recordings. After this Court ordered production of those recordings, HomeAdvisor instead dumped *30-50 million* data files, many of which are nonresponsive, into a practically unsearchable depository. Because HomeAdvisor’s conduct undermines the Court’s authority and its ability to evaluate Respondent’s business practices, Complaint Counsel moves pursuant to Commission Rule 3.38(b) to sanction HomeAdvisor by ordering that previously produced sales call recordings will be treated as representative, by prohibiting HomeAdvisor from objecting to the introduction and use of those recordings, and by prohibiting HomeAdvisor from introducing evidence to the contrary.

EXPEDITION

Fact discovery has closed, expert deadlines are imminent, and Complaint Counsel’s expert cannot prepare a report without the recordings HomeAdvisor effectively refuses to produce. Pursuant to Rule 3.22(d), Complaint Counsel respectfully requests that HomeAdvisor be required to respond to this motion by **September 16, 2022**, and that the Court rule on the

motion by **September 20, 2022**, to expeditiously address HomeAdvisor's conduct and resolve this issue. A proposed order is attached.

BACKGROUND

The Complaint alleges that HomeAdvisor's sales representatives misled service providers about the viability of HomeAdvisor's leads and the cost of an annual membership with an mHelpDesk subscription. Sales call recordings are critical evidence of HomeAdvisor's misleading practices.

On April 7, 2022, Complaint Counsel moved for summary decision and attached, *inter alia*, transcripts of 100 sales call recordings randomly selected from the recordings produced by Respondent in response to the Commission's CID. Complaint Counsel's Motion for Summary Decision ("SD Motion"). In its June 6 opposition, Respondent argued that the sample introduced was not representative. Respondent's Statement of Material Facts for Which There is a Genuine Issue for Trial, attached to Respondent's Opposition to Complaint Counsel's Motion for Summary Decision at 186-87. On June 8, Complaint Counsel served HomeAdvisor with its Second Set of Requests for Production of Documents, including Request 14 (the "Request"). Declaration of Sophia H. Calderón ("Calderón Decl."), Exh. A. The Request sought all sales call recordings for which Respondent's voice log process was completed¹ from May 1 through October 31, 2019, to be produced "via electronic mail, or at such time and place as may be agreed upon by all counsel." *Id.*

HomeAdvisor resisted the requested production, eventually representing that it would produce approximately 5,000-6,000 sales call recordings from the specified time period. Calderón Decl., Exh. B. Complaint Counsel proposed accepting those recordings as sufficient if

¹ Completion of the voice log process is a proxy for identifying calls that resulted in a sale.

HomeAdvisor stipulated to, *inter alia*, treating them as representative. *Id.* HomeAdvisor refused, and Complaint Counsel moved to compel. On August 7, Respondent produced via FTP approximately 4,700 recordings, Calderón Decl., Exh. C, which Complaint Counsel understands to be the approximately 5,000-6,000 recordings that Respondent represented it would produce.

On August 16, this Court granted Complaint Counsel's motion and ordered HomeAdvisor to either produce all material responsive to the Request or stipulate to treating the prior production of sales call recordings as representative. Order Granting Complaint Counsel's Mot. to Compel Documents Responsive to Request 14 at 3-4 ("Order").

HomeAdvisor did neither. On August 30, the last day possible to comply with the Order, HomeAdvisor sent Complaint Counsel a link to a virtual machine that the company claimed would allow access to a HomeAdvisor database containing the requested recordings. Calderón Decl., Exh. D. Complaint Counsel was initially unable to access the database. Calderón Decl. ¶ 7. On September 2, Complaint Counsel attended a videoconference that included HomeAdvisor's counsel and William Cole Bryant Tracy, a Senior Manager of Enterprise Infrastructure with Respondent's parent company. *Id.* ¶ 8. During that videoconference, Mr. Tracy shared his screen, demonstrated how to access the database, and explained how to search for, listen to, and download files in the database. *Id.* ¶ 9. He explained that the database contained millions of data files that correspond to audio files, that some data files contained audio files accessible to Complaint Counsel, that Complaint Counsel could determine whether a data file contained an accessible audio file only by checking it individually, and that records could be downloaded only in groups of 100 or less. *Id.*

On September 13, 2022, Complaint Counsel accessed the database and confirmed that not all of the data files contained accessible audio files and that Complaint Counsel could determine

whether a data file contained an accessible audio file only by checking it individually. *Id.* ¶ 11. Complaint Counsel also determined that records could be searched for only by date, that records containing accessible audio files did not necessarily concern calls on which the voice log process was completed, and that it is seemingly impossible to download a complete list of the records. *Id.*

ARGUMENT

HomeAdvisor has chosen, repeatedly, to withhold and obscure responsive, highly relevant recordings. Rather than produce a reasonable amount of usable, electronically stored information (ESI), HomeAdvisor dumped *millions of files* in a virtual repository and told Complaint Counsel to check their responsiveness individually. No matter the form HomeAdvisor stores recordings, “it is not enough for a party who produces documents as they are kept in the ordinary course of business to simply invite the requesting party to sift through its file cabinets in an effort to locate those documents that are responsive to its requests.” *In the Matter of Traffic Jam Events, LLC*, 2021 WL 3701656, at *3-4 (F.T.C. Aug. 9, 2021) (quoting *Henderson v. Holiday CVS, L.L.C.*, No. 09-80909-CIV, 2010 WL 11505168, at *2 (S.D. Fla. Aug. 11, 2010)). Because this is little more than a “document dump with an instruction to the requesting party to go fish,” *id.* (internal quotation marks omitted), HomeAdvisor has violated this Court’s Order and Commission Rule 3.37(e).

1. Legal Standards

Rule 3.37(c), which governs discovery of ESI, provides that ESI must be produced in the form requested, 16 C.F.R. § 3.37(c)(ii); *see also* Fed. R. Civ. P. 34(b)(2)(E)(ii),² or, if no form was requested, in a form in which it is ordinarily maintained or in a reasonably usable form.

Landry v. Swire Oilfield Servs., L.L.C., 323 F.R.D. 360, 390 (D.N.M. 2018) (quoting Federal

² Because Rule 3.37(c) is similar to Federal Rule 34(b)(2)(E), this Court may look to cases applying the federal rule for guidance. *Traffic Jam*, 2021 WL 3701656, at *4 n.5.

Rule 34(b)(2)(E)(i)-(ii)). Where ESI is produced as ordinarily maintained, a producing party cannot merely facilitate access to voluminous documents without regard for responsiveness. *Traffic Jam*, 2021 WL 3701656, at *3. Furthermore, whether ESI is searchable is a factor in determining its reasonable usability. *See, e.g., Landry*, 323 F.R.D. at 390. ESI usability is critical to evaluating responsiveness because Commission Rule 3.37(c) is not satisfied where the requesting party cannot reasonably determine which documents are responsive to its requests. *See Traffic Jam*, 2021 WL 3701656, at *3; *see also Landry*, 323 F.R.D. at 388 (“ESI can be jumbled beyond usefulness—by dumping them out of their file directories and onto the requesting party—just as easily as hard copy documents can.”); *cf. Nat’l Jewish Health v. WebMD Health Servs. Grp., Inc.*, 305 F.R.D. 247, 254 (D. Colo. 2014) (applying Federal Rule 34(b)(2)(E)(i)) (quoting *Armor Screen Corp. v. Storm Catcher, Inc.*, No. 07-81091-Civ-Ryskamp/Vitunac, 2009 WL 291160, at *2 (S.D. Fla. Feb. 5, 2009)).

2. The Millions of Data Files Are Not Reasonably Usable

HomeAdvisor created a functionally unsearchable depository of millions of data files rather than actually produce the responsive recordings.³ There is no functional way to narrow to responsive recordings. Indeed, the millions of data files: (a) can be searched only by date; (b) cannot be narrowed by whether they have an accessible audio file; (c) cannot be narrowed by whether the audio file, if accessible, concerns a call on which the voice log process was completed; and (d) can be downloaded only in batches of up to 100. Calderón Decl. ¶¶ 9, 11. Further, there is seemingly no way to export a list of the of data files. *Id.* ¶ 11.

³ HomeAdvisor acknowledges this investigation began in July 2019, *see* Memorandum of Law in Opposition to Complaint Counsel’s Motion to Compel Respondent to Comply with Complaint Counsel’s Request for Production of Documents at 2, yet its own declarant says Respondent moved certain of the files in question to “extreme long term retention” in 2020 or 2021. *Id.*, RX8 at 2-3. If, as Respondent asserts, its own actions—after litigation became reasonably foreseeable—functionally destroyed or obscured evidence, then HomeAdvisor ignored retention obligations for years.

These issues were foreseeable, but HomeAdvisor chose to provide this data dump on the last day possible. HomeAdvisor could have attempted a technological workaround months ago. Alternatively, HomeAdvisor could have accepted Complaint Counsel's offered stipulation that another set of recordings be treated as responsive. Instead, HomeAdvisor dumped millions of files into a pile and told Complaint Counsel, "Go fish." Rule 3.37(c)(ii) requires more. *Cf. Henderson*, 2010 WL 11505168, at *3 ("A party exercising Rule 34's option to produce records as they are kept in the usual course of business should organize the documents in such a manner that [the requesting party] may obtain, with reasonable effort, the documents responsive to their requests.") (quoting *Armor Screen Corp.*, 2009 WL 291160, at *2) (alteration in original).

HomeAdvisor's foot-dragging has severely impinged Complaint Counsel's ability to analyze relevant evidence to meet fast-approaching expert discovery deadlines and prepare for trial. Indeed, Complaint Counsel cannot create a representative sample of recordings from a vastly overinclusive database of files that provides no mechanism to facially identify which files are actually responsive. HomeAdvisor should have raised these technological hurdles months ago,⁴ rather than as a surprise at the close of discovery.

Because HomeAdvisor produced essentially unsearchable ESI and has not provided the ability to make the ESI searchable, its production is unusable. *See Landry*, 323 F.R.D. at 390. And because Complaint Counsel is unable to determine which, if any, of the recordings are responsive, Rule 3.37(c) is unsatisfied. *Cf. Nat'l Jewish Health*, 305 F.R.D. at 254 (applying Fed. R. Civ. P. 34(b)(2)(E)(i)).

⁴ In its opposition to Complaint Counsel's motion to compel, HomeAdvisor submitted a declaration from Mr. Tracy purporting to outline the burden in complying with the Request. In outlining the efforts it would take to *restore* responsive recordings, Mr. Tracy made no mention to the Court that HomeAdvisor's production would be in this unusable form.

3. *Sanctions Are Warranted*

HomeAdvisor violated this Court’s Order and Rule 3.37(c). Sanctions are warranted under Rule 3.38. “Sanctions may be imposed for failing to comply with a discovery obligation where the failure to comply was ‘unjustified and the sanction imposed is reasonable in light of the material withheld and the purposes of Rule 3.38(b).’” *Traffic Jam*, 2021 WL 3701656, at *3 (quoting *In re ECM BioFilms, Inc.*, 2014 FTC LEXIS 44, at *5 (Mar. 11, 2014)). “Rule 3.38 is designed both to prohibit a party from resting on its own concealment and to maintain the integrity of the administrative process.” *In the Matter of LabMD, Inc.*, 2014 WL 1100693, at *4 (F.T.C. Mar. 10, 2014) (quoting *In re Grand Union Co.*, 102 F.T.C. 812, 1983 WL 486347, at *208 (1983)). Because HomeAdvisor has not complied with discovery obligations imposed by both Rule 3.37 and this Court, the Court may impose sanctions, including but not limited to, the following:

[...]

(2) Order that the matter be admitted or that the admission, testimony, documents, or other evidence would have been adverse to the party;

(3) Rule that for the purposes of the proceeding the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(4) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer, agent, expert, or fact witness, or the documents or other evidence, or upon any other improperly withheld or undisclosed materials, information, witnesses, or other discovery[.]

16 C.F.R. § 3.38(b).

Here, HomeAdvisor resisted production of these responsive and highly relevant recordings practically until the close of discovery. And what it “produced” is unusable. Recently, in *Traffic Jam*, this Court concluded that merely providing access to a large volume of records

without the ability to identify responsive documents was sanctionable and an adverse inference was warranted. 2021 WL 3701656, at *6-7. Similarly, HomeAdvisor did no more than tell Complaint Counsel where it can access records and took no steps to designate or describe responsive recordings. Regardless of how these records were originally maintained, HomeAdvisor must do more than provide access to a massive depository of unusable data. *Henderson*, 2010 WL 11505168, at *3 (citing *Alford v. Aaron Rents, Inc.*, 2010 WL 2765260, at *22 (S.D. Ill. May 17, 2010)). As in *Traffic Jam*, sanctions are warranted.

Further, HomeAdvisor should not benefit from defying this Court's authority by limiting Complaint Counsel's ability to meet upcoming expert discovery deadlines and prepare for trial through a last-minute data dump. HomeAdvisor's latest ploy has made it functionally impossible for Complaint Counsel and/or an expert to analyze the recordings, including by selecting a random sample of recordings that resulted in sales. This burden should fall on its creator: HomeAdvisor.

The Court has discretion to fashion appropriate sanctions. 16 C.F.R. § 3.38(b). A proportionate sanction under Rule 3.38(b)(2)-(3) would nullify the evidentiary injuries⁵ caused by HomeAdvisor's discovery abuses by ordering that a set of HomeAdvisor's previously produced sales call recordings be treated as representative of Respondent's sales calls. Accordingly, the Court should order that the sample of 100 recordings submitted in support of the SD Motion be treated as representative of all of Respondent's sales calls. Alternatively, the Court should order that the approximately 4,700 sales call recordings produced on August 7 be

⁵ Additionally, HomeAdvisor's discovery abuses have caused temporal injuries to Complaint Counsel, who cannot even *begin* to analyze the responsive recordings. Simultaneous with this filing, Complaint Counsel has therefore filed a motion with the Commission to continue the current evidentiary hearing date.

treated as representative of all of Respondent's sales calls for the time period from May 1 through October 31, 2019.

To effectuate these sanctions, related and necessary sanctions pursuant to Rule 3.38(b)(4) should prohibit HomeAdvisor from: (1) objecting to the introduction of the representative sample; (2) relying upon withheld recordings; and (3) introducing and using secondary evidence to show what withheld evidence would have shown. These sanctions are appropriate to HomeAdvisor's conduct and proportionate to the significance of the withheld evidence. *Traffic Jam*, 2021 WL 3701656, at *5-6.

CONCLUSION

For three months, HomeAdvisor has failed to uphold its discovery obligations by resisting compliance with Complaint Counsel's Request for relevant evidence, by rejecting Complaint Counsel's reasonable compromise offer, and by defying this Court's Order. Now, it has deposited millions of effectively unusable files in an electronic depository under its sole control. Sanctions are appropriate and necessary under Rule 3.38(b) to protect the integrity of this proceeding and ameliorate the consequences of HomeAdvisor's discovery abuses.

Respectfully submitted,

Dated: September 14, 2022

s/ Sophia H. Calderón

Sophia H. Calderón
Colin D. A. MacDonald
Breena M. Roos
M. Elizabeth Howe
Katharine F. Barach
Nadine S. Samter
Ben A. Halpern-Meekin

Federal Trade Commission
Northwest Region
915 Second Ave., Suite 2896
Seattle, WA 98174
Tel.: (206) 220-6350
Fax: (206) 220-6366
Email: scalderon@ftc.gov
cmacdonald@ftc.gov
broos@ftc.gov
mhowe@ftc.gov
kbarach@ftc.gov
nsamter@ftc.gov
bhalpernmeekin@ftc.gov

Counsel Supporting the Complaint

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.**

DOCKET NO. 9407

STATEMENT REGARDING MEET AND CONFERS

Pursuant to Paragraph 4 of the Scheduling Order issued in this matter, Complaint Counsel submits this Statement regarding its conferences with Respondent's Counsel regarding the Requests for Production which form the basis of its contemporaneously filed motion:

On **September 2, 2022, at 1:00pm Pacific Time**, Complaint Counsel Sophia H. Calderón, Breena M. Roos, and Ben A. Halpern-MeeKin met via Zoom with Neil T. Phillips, Respondent's Counsel, and William Cole Bryant Tracy, a Senior Manager of Enterprise Infrastructure with Respondent's parent company, to discuss the virtual machine (VM) and virtual private network (VPN) that HomeAdvisor set up to provide access to the recordings produced. Mr. Tracy explained the steps by which Complaint Counsel were supposed to be able to access the VM through the VPN. Complaint Counsel asked how to identify recordings produced that were responsive to the request for production, and Mr. Tracy explained that each recording would need to be accessed individually to do so.

On **September 7, 2022, at 12:15pm Pacific Time**, Complaint Counsel Sophia H. Calderón, Colin D. A. MacDonald, Breena M. Roos, and Ben A. Halpern-MeeKin met via Zoom with Respondent's Counsel Neil T. Phillips. Technology support employees from both Respondent and Complaint Counsel participated in the call. During this call, Complaint Counsel

explained that it was having ongoing difficulties accessing the repository, and Respondent made technical modifications and provided additional access information which allowed Complaint Counsel to access the repository itself for the first time.

On **September 13, 2022, at 12:00pm Pacific Time**, Complaint Counsel Sophia H. Calderón, Colin D. A. MacDonald, and Ben A. Halpern-Meekin met via Zoom call with Respondent's Counsel Neil T. Phillips and Kyra Simon. During this call, Complaint Counsel explained that the technical limitations of the repository system made accessing the responsive calls and separating them from nonresponsive calls functionally impossible. Complaint Counsel stated that it viewed this as insufficient to meet Respondent's obligations under the Court's August 16 order. Respondent disagreed. Complaint Counsel invited Respondent to reconsider its position regarding stipulating to the representativeness of previously produced sales call recordings. Respondent declined.

Respectfully submitted,

Dated: September 14, 2022

s/ Sophia H. Calderón

Sophia H. Calderón
Colin D. A. MacDonald
Breena M. Roos
M. Elizabeth Howe
Katharine F. Barach
Nadine S. Samter
Ben A. Halpern-Meekin

Federal Trade Commission
Northwest Region
915 Second Ave., Suite 2896
Seattle, WA 98174
Tel.: (206) 220-6350
Fax: (206) 220-6366
Email: scalderon@ftc.gov
cmacdonald@ftc.gov
broos@ftc.gov
mhowe@ftc.gov
kbarach@ftc.gov
nsamter@ftc.gov
bhalpernmeekin@ftc.gov

Counsel Supporting the Complaint

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.

DOCKET NO. 9407

**[PROPOSED] ORDER GRANTING COMPLAINT COUNSEL'S MOTION FOR
DISCOVERY SANCTIONS**

Pursuant to FTC Rule of Practice 3.38, 16 C.F.R. § 3.38, Complaint Counsel's Motion for Discovery Sanctions Against HomeAdvisor, Inc. is GRANTED and it is hereby:

[Complaint Counsel has offered two proposed sanctions below. For the Court's convenience, proposed order language for both are listed below.]

[Proposed Sanctions No. 1:]

ORDERED that the sample of 100 calls transcribed and attached to Complaint Counsel's Motion for Summary Decision as attachments to PX0022 (referred to herein as the "Representative Calls") shall be treated as representative of all sales calls made by Respondent during the time period relevant to this litigation, AND

ORDERED that Respondent is prohibited from challenging the reliability or admissibility of the Representative Calls, AND

ORDERED that Respondent is prohibited from introducing as evidence: (a) any call recordings not produced to Complaint Counsel before September 6, 2022, the close of discovery in this matter; and (b) any secondary evidence that purport to show the contents of any call recordings not produced to Complaint Counsel before September 6, 2022, the close of discovery in this matter. Respondent is prohibited from introducing as evidence any call recording, or any

secondary evidence that purports to show the contents of any call recording, that was only accessible to Complaint Counsel via the virtual machine referenced in Respondent's August 30, 2022 email to Complaint Counsel.

[Proposed Sanctions No. 2]

ORDERED that the approximately 4,700 sales calls Respondent produced on August 7, 2022 (referred to herein as the "Representative Calls") shall be treated as representative of all sales calls made by Respondent during the time period from May 1, 2019 through October 31, 2019, AND

ORDERED that Respondent is prohibited from challenging the reliability or admissibility of the Representative Calls, AND

ORDERED that Respondent is prohibited from introducing as evidence: (a) any call recordings not produced to Complaint Counsel before September 6, 2022, the close of discovery in this matter; and (b) any secondary evidence that purport to show the contents of any call recordings not produced to Complaint Counsel before September 6, 2022, the close of discovery in this matter. Respondent is prohibited from introducing as evidence any call recording, or any secondary evidence that purports to show the contents of any call recording, that was only accessible to Complaint Counsel via the virtual machine referenced in Respondent's August 30, 2022 email to Complaint Counsel.

SO ORDERED.

Dated:

D. Michael Chappell
Chief Administrative Law Judge

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

**HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.**

DOCKET NO. 9407

[PROPOSED] ORDER REQUIRING EXPEDITED RESPONSE

On September 14, 2022, Complaint Counsel filed an Expedited Motion for Discovery Sanctions Against HomeAdvisor, Inc. with respect to compliance with this Court's August 16 Order Granting Complaint Counsel's Motion to Compel Documents Responsive to Request 14. Under the Scheduling Order in this case, as amended, fact discovery closed on September 6, 2022, Respondent is due to sit for a corporate deposition, and expert discovery deadlines are approaching as soon as September 20, 2022.

Pursuant to FTC Rule 3.22(d), the Administrative Law Judge may shorten the time within which a response is due. It is HEREBY ORDERED that Respondent HomeAdvisor, Inc. shall file any response to the Motion no later than 5:00 p.m. on September 16, 2022.

SO ORDERED.

Dated:

D. Michael Chappell
Chief Administrative Law Judge

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.

DOCKET NO. 9407

DECLARATION OF SOPHIA H. CALDERÓN

I, Sophia H. Calderón, declare as follows:

1. I am an attorney at the Federal Trade Commission (“FTC”) and Complaint Counsel in this proceeding. Unless otherwise stated, I have personal knowledge of the information contained herein.

2. Complaint Counsel’s Second Set of Requests for Production of Documents (the “Requests”) were served by Complaint Counsel on Respondent’s Counsel on June 8, 2022, and are attached as Exhibit A. As reflected in Exhibit A, Request 14 sought production of:

For the time period from May 1, 2019, through October 31, 2019, recordings of all telephone calls between **Your** sales agents and prospective **Service Providers** during which the prospective **Service Provider** completed **Your Voice Log Process** and responded affirmatively to all of the questions asked in **Your Voice Log Process**. This request seeks, to the extent available, recordings of the entirety of such telephone calls, and is not limited to the recordings of the **Voice Log Process**.

The Requests defined “Voice Log Process” as “the process that is described in paragraphs 4 and 5 of the Declaration of Michael Metzger, RX0095 to Respondent HomeAdvisor, Inc.’s Memorandum of Law in Opposition to Complaint Counsel’s Motion for Summary Decision.” Completion of the voice log process is a proxy for identifying calls that resulted in a sale.

3. Complaint Counsel sent a letter to Respondent’s Counsel on July 29, 2022, proposing particular circumstances in which it would accept Respondent’s production of 5,000-6,000 sales call recordings as sufficient in response to Request 14. Complaint Counsel’s July 29 letter is attached as Exhibit B.

4. On August 7, 2022, I received an email from Mr. Neil Phillips, counsel for Respondent, stating that the email contained a file transfer protocol (FTP) link by which Complaint Counsel could download a production that included approximately 4,700 “QA audio recordings.” Mr. Phillips’ August 7 email is attached as Exhibit C.

5. Prior to August 30, 2022, Respondent’s document productions in the above-captioned matter (including the August 7 production referenced above in Paragraph 4) were sent via emails to Complaint Counsel containing an FTP link by which Complaint Counsel could download the production.

6. On August 30, 2022, I received an email from Mr. Phillips containing instructions on how to access a virtual machine that would purportedly provide Complaint Counsel with access to a database containing “the requested archived sales audio recordings from May 1, 2019 through October 31, 2019.” In his August 30 email, Mr. Phillips noted that the database contained icons for both responsive and non-responsive audio recordings and that only the icons for responsive audio recording would contain actual audio files accessible to Complaint Counsel. Mr. Phillips’ August 30 email is attached as Exhibit D.

7. Despite following the instructions provided by Mr. Phillips, I was initially unable to access the database because accessing the database required me to download a software to my computer that security features on my computer put in place by the FTC would not allow me to download. I informed Mr. Phillips of this by email on September 1, 2022. My September 1 email is attached as Exhibit E.

8. On September 2, 2022, I attended a meeting, via Zoom, with Mr. Phillips and Mr. William Cole Bryant Tracy, who I understand is a Senior Manager of Enterprise Infrastructure with Respondent’s parent company, Angi. Also present were Breena Roos and Ben Halpern-Meekin, who are Complaint Counsel.

9. During this meeting, Mr. Tracy shared his screen, demonstrated how to access the database containing the audio recordings, and explained how to search for, listen to, and download files in the database. Mr. Tracy explained the database contained between 30 and 50 million data files that correspond to audio files, that not all of the data files contained audio files

accessible to Complaint Counsel, that Complaint Counsel could determine whether a data file contained an accessible audio file only by checking it individually, and that records could only be viewed and downloaded in groups of 100 or fewer.

10. Complaint Counsel was not able to access the database until September 7, 2022.

11. On September 13, 2022, I accessed the database and confirmed that not all of the data files contained accessible audio files, and that I could determine whether a data file contained an accessible audio file only by checking it individually. I listened to four audio files accessible in the database: the voice log process did not occur during any of them and one of them was not a sales call. I also determined that the only way to search the records in the database was by date, and that there were approximately 13.4 million data files between May 1, 2019, and October 31, 2019. Exporting a complete list of the records in the database did not appear to be possible.

I declare under penalty of perjury that to the best of my knowledge and belief the foregoing is true and accurate.

Dated: September 14, 2022

s/ Sophia H. Calderón

Sophia H. Calderón

Federal Trade Commission

Northwest Region

915 Second Ave., Suite 2896

Seattle, WA 98174

Tel.: (206) 220-6350

Fax: (206) 220-6366

Email: scalderon@ftc.gov

Counsel Supporting the Complaint

EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

**HOMEADVISOR, INC., a corporation,
d/b/a ANGI LEADS,
d/b/a HOMEADVISOR POWERED BY ANGI.**

DOCKET NO. 9407

**COMPLAINT COUNSEL'S SECOND SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.37(a), Complaint Counsel hereby requests that Respondent HomeAdvisor, Inc. produce all documents, electronically stored information, and other things in its possession, custody, or control responsive to the following requests within 30 days via electronic mail, or at such time and place as may be agreed upon by all counsel.

I. DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in this Schedule is intended to have the broadest meaning permitted under the Federal Trade Commission's Rules of Practice.

1. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request any information that might otherwise be construed to be outside its scope.
2. "Any" shall be construed to include "all," and "all" shall be construed to include the word "any."
3. "Each" shall be construed to include "every," and "every" shall be construed to include "each."
4. "Includes" or "including" means "including, but not limited to," so as to avoid excluding any information that might otherwise be construed to be within the scope of any request for information.
5. "Relating to" or "related to" means discussing, describing, reflecting, referring, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

6. **“Lead”** means any set of information sold or otherwise provided by **You** to a **Service Provider** about a **Person** (i) who has expressed an interest in, or has visited a website related to, home services, or (ii) who has been identified as a potential customer for home services.
7. **“Person”** means any natural person, corporation, partnership, or other business association and any other legal entity, including all members, officers, predecessors, assigns, divisions, affiliates, and subsidiaries.
8. **“Service Provider”** means a **Person** who sells home services and has purchased a membership and/or **Leads** from **You**.
9. **“You,” “Your,”** or **“Yourself”** means HomeAdvisor, Inc., also doing business as Angi Leads, also doing business as HomeAdvisor Powered by Angi, or any agent, employee, officer, or representative thereof.
10. **“Voice Log Process”** means the process that is described in paragraphs 4 and 5 of the Declaration of Michael Metzger, RX0095 to Respondent HomeAdvisor, Inc.’s Memorandum of Law in Opposition to Complaint Counsel’s Motion for Summary Decision.
11. The use of the singular includes the plural, and the plural includes the singular.
12. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.
13. The spelling of a name shall be construed to include all similar variants thereof.

II. INSTRUCTIONS

1. All documents produced in response to these requests shall be clearly and precisely identified as to the Request(s) to which they are responsive. Documents that may be responsive to more than one Request need not be submitted more than once; however, **Your** response shall indicate, for each document submitted, all Requests to which the documents are responsive.
2. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the document Request. The document shall not be edited, cut, or expunged and shall include all covering letters and memoranda, transmittal slips, appendices, tables, or other attachments.
3. Each page submitted should be marked with a unique “Bates” document tracking number.
4. Documents covered by these specifications are those that are in **Your** possession or under **Your** actual or constructive custody or control, whether or not such documents were

received from or disseminated to any other **Person** or entity including attorneys, accountants, directors, officers, employees, independent contractors, and volunteers.

5. If any requested material is withheld based on a claim of privilege, submit, together with such claim, a schedule of items withheld that states individually for each item withheld: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that item as privileged. If only part of a responsive document is privileged, all non-privileged portions of the document must be submitted.
6. The document Requests are continuing in character so as to require **You** to produce additional information promptly upon obtaining or discovering different, new, or further information before the close of discovery as set forth in the Scheduling Order in this matter.
7. **You** are hereby advised that Complaint Counsel will move, if any party files any dispositive motion, or at the commencement of trial, to preclude **You** from presenting evidence regarding responsive matters **You** have failed to set forth in **Your** answers to these document Requests.

III. REQUESTS FOR PRODUCTION

Demand is hereby made of Respondent HomeAdvisor, Inc. for the following documentary and tangible things:

14. For the time period from May 1, 2019, through October 31, 2019, recordings of all telephone calls between **Your** sales agents and prospective **Service Providers** during which the prospective **Service Provider** completed **Your Voice Log Process** and responded affirmatively to all of the questions asked in **Your Voice Log Process**. This request seeks, to the extent available, recordings of the entirety of such telephone calls, and is not limited to the recordings of the **Voice Log Process**.
15. For each recording responsive to Request for Production No. 14, above, all records and/or data pertaining to the telephone call, including but not limited to the date on which the telephone call occurred, the duration of the telephone call, the name of **Your** sales agent on the call, **Your** unique identifier for the prospective **Service Provider** (*i.e.*, the “**Service Provider** identification number”) on the telephone call, if one was eventually assigned, and the membership price the prospective **Service Provider** was quoted during the **Voice Log Process**.
16. For each recording responsive to Request for Production No. 14, above, any quality assurance assessments, evaluations, or grading of **Your** sales agent’s performance during the specific telephone call.

Respectfully,

Dated: June 8, 2022

By: s/ Sophia H. Calderón
Sophia H. Calderón
Colin D. A. MacDonald
Breena M. Roos
M. Elizabeth Howe

Federal Trade Commission
Northwest Region
915 Second Ave., Suite 2896
Seattle, WA 98174
Tel.: (206) 220-6350
Fax: (206) 220-6366
Email: scalderon@ftc.gov
cmacdonald@ftc.gov
broos@ftc.gov
mhowe@ftc.gov

Counsel Supporting the Complaint

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2022, I caused a true and correct copy of the foregoing to be served via electronic mail to:

William A. Burck
Dawn Y. Yamane Hewett
Kyra R. Simon
Quinn Emanuel Urquhart & Sullivan, LLP
1300 I Street NW, 9th Floor
Washington, DC 20005
(202) 538-8000
williamburck@quinnemanuel.com
dawnhewett@quinnemanuel.com
kyrasimon@quinnemanuel.com

Stephen R. Neuwirth
Jennifer J. Barrett
Neil T. Phillips
George T. Phillips
Jared Ruocco
Kathryn D. Bonacorsi
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000
stephenneuwirth@quinnemanuel.com
jenniferbarrett@quinnemanuel.com
neilphillips@quinnemanuel.com
georgephillips@quinnemanuel.com
jaredruocco@quinnemanuel.com
kathrynbonacorsi@quinnemanuel.com

Counsel for Respondent HomeAdvisor, Inc.

Dated: June 8, 2022

By: s/ Sophia H. Calderón
Sophia H. Calderón
Federal Trade Commission
Northwest Region
915 Second Ave., Suite 2896
Seattle, WA 98174

Counsel Supporting the Complaint

EXHIBIT B



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
Northwest Regional Office

Colin D. A. MacDonald
Attorney
(206) 220-4474
cmacdonald@ftc.gov

July 29, 2022

BY EMAIL

HomeAdvisor, Inc.
c/o Quinn Emanuel Urquhart & Sullivan, LLP
Attn: Neil T. Phillips, Esq. (neilphillips@quinnemanuel.com)
George T. Phillips, Esq. (georgephillips@quinnemanuel.com)

Re: **In the Matter of HomeAdvisor, Inc., Docket No. 9407**
HomeAdvisor, Inc.'s Responses and Objections to Complaint Counsel's
Second Set of Requests for Production and First Set of Interrogatories

Dear Counsel:

Thank you for meeting with Complaint Counsel today to discuss HomeAdvisor, Inc.'s Responses and Objections to Complaint Counsel's Second Set of Requests for Production and HomeAdvisor, Inc.'s Responses and Objections to Complaint Counsel's First Set of Interrogatories. Based on today's conversation and your letter, dated July 28, 2022, we expect to see significant productions in response to both the Requests for Production and the Interrogatories next week (by August 5, 2022). Details on the anticipated productions follow.

Second Set of Requests for Production. Based on our conversation, we understand that HomeAdvisor, Inc. has identified approximately 5,000-6,000 call recordings from the time period specified in Request for Production 14 and for which quality assurance reviews responsive to Request for Production 16 have been similarly identified (collectively referred to hereafter as the "Quality Assurance Recordings"). It is also our understanding based on your representations regarding your client's collection efforts that these Quality Assurance Recordings do not include any recordings for which no quality assurance form exists. We understand that this is because the recordings for which such forms exist are stored in a different location than other recordings. You stated that you would produce the Quality Assurance Recordings by August 5, 2022, and asked whether we would consider production of the Quality Assurance Recordings sufficient for purposes of Request for Production 14.

The plain reading of Request for Production 14 requires production of recordings from the relevant period regardless of whether associated quality assurance forms exist (or ever existed). These recordings are plainly relevant to the claims and defenses at issue in this case. Indeed, HomeAdvisor, Inc. has repeatedly argued that the calls transcribed and attached to

Complaint Counsel's Motion for Summary Decision are insufficiently representative of all sales calls. Thus, it is HomeAdvisor, Inc.'s own litigation position which makes this production vital to the litigation. Our proposal below seeks to address that objection and your client's simultaneous claims of burden in retrieving additional recordings. However, as discussed on today's call, your client's suggestion that it be permitted to select a smaller population of more recent calls is not viable, as such a proposal would permit your client to unilaterally limit the scope of discovery to a recent period for claims that extend back several years.

That said, in order to expedite resolution of this matter without need for motions practice, Complaint Counsel will accept the Quality Assurance Recordings as a sufficient production in response to Request for Production 14 if:

1. HomeAdvisor, Inc. represents that the Quality Assurance Recordings consist of all extant recorded calls from its internal Quality Assurance process from the period of May 1, 2019 through October 31, 2019 for which quality assurance forms exist (*i.e.*, the search parameters would identify all such calls and no calls from this population have been withheld);
2. HomeAdvisor, Inc. represents that no retention or deletion policy or procedures have resulted in any particular category of recorded call being omitted from the Quality Assurance Recordings (*e.g.*, calls resulting in termination); and
3. HomeAdvisor, Inc. stipulates that the Quality Assurance Recordings are representative of all sales calls from the period of May 1, 2019 through October 31, 2019.

We ask that you either 1) agree to the above three conditions and commit to producing the Quality Assurance Recordings as well as associated documents responsive to Requests for Production 15 and 16 by August 5, 2022, or 2) you commit to producing by August 5, 2022, all recordings from the relevant period regardless of whether associated quality assurance forms exist. Please provide us with your final position by August 2, 2022, so that we can determine whether a motion to compel is necessary.

First Set of Interrogatories. As we discussed on the call, we understand that HomeAdvisor, Inc. intends to produce additional data responsive to Interrogatory No. 1 by August 5, 2022. At the time of that production, we understand HomeAdvisor, Inc. intends to identify with a chart the tables which are explicitly responsive to each interrogatory and subpart. Pursuant to Rule of Practice 3.35(c), we request that you ensure that this chart indicates with specificity where within (such as which column(s) and/or row(s)) each identified table the responsive information can be found, as our position is that, because the data has been produced according to HomeAdvisor, Inc.'s internal taxonomy rather than rendered for general consumption, failure to provide sufficient information to decipher the data you have produced will impose substantially greater burden on Complaint Counsel in deriving or ascertaining the answers to Interrogatories.

If you have additional questions regarding the substance or manner of these productions, please let us know. We are available if needed for a further meet and confer next week. Otherwise, we look forward to receiving your response by August 2, 2022, and the productions outlined above by August 5, 2022.

Sincerely,

s/ Colin D. A. MacDonald
Colin D. A. MacDonald

Cc: All Counsel of Record (by email)

EXHIBIT C

From: [Neil Phillips](#)
To: [Calderon, Sophie](#); [MacDonald, Colin](#); [Roos, Breena](#); [Howe, Beth](#)
Cc: [JenniferBarrett-contact](#); [Kyra Simon](#); [George Phillips](#); [Kathryn Bonacorsi](#); [Tyler Stapleton](#); [Todd Riegler](#)
Subject: HomeAdvisor Production Volumes 56-59 / Docket No. 9407
Date: Sunday, August 7, 2022 8:11:41 PM
Attachments: [8.7.22- FTC Privilege Log \(Withheld & Redaction\).XLSX](#)
[8.7.22 - HomeAdvisor's Amended Responses to First Set of RFPs.pdf](#)

Counsel,

The FTP below contains four production volumes—including approximately 4,700 QA audio recordings and accompanying materials—the details of which are below. Also attached is HomeAdvisor’s most recent privilege log, as well as our amended responses and objections to Complaint Counsel’s first set of document requests.

Volume: HOMEADVISOR_FTC059

Bates Range: HOMEADVISOR_FTC0138544 - HOMEADVISOR_FTC0144209

Total Documents: 5,448

Total Images: 5,666

Volume: HOMEADVISOR_FTC058

Bates Range: HOMEADVISOR_FTC0137313 - HOMEADVISOR_FTC0138543

Total Documents: 334

Total Images: 1,231

Volume: HOMEADVISOR_FTC057

Bates Range: HOMEADVISOR_FTC0129554 - HOMEADVISOR_FTC0137312

Total Documents: 7,322

Total Images: 7,759

Volume: HOMEADVISOR_FTC056

Bates Range: HOMEADVISOR_FTC0127728 - HOMEADVISOR_FTC0129553

Total Documents: 713

Total Images: 1,826

[Click here to download the file\(s\) listed below](#)

HOMEADVISOR_FTC056.zip	2.70 GB
HOMEADVISOR_FTC057.zip	7.91 GB
HOMEADVISOR_FTC058.zip	457.99 MB
HOMEADVISOR_FTC059.zip	6.70 GB

If the link above does not open, please copy and paste the following URL into your browser:
<https://sendfile.quinnemanuel.com?p=aa13ceee-ae12-47ce-8bf3-bbe1ca7b4228>

Regards,
Neil

Neil Phillips
Associate

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7651 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
neilphillips@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

EXHIBIT D

From: [Neil Phillips](#)
To: [Calderon, Sophie](#); [Roos, Breena](#); [MacDonald, Colin](#); [Howe, Beth](#)
Cc: [JenniferBarrett-contact](#); [Kathryn Bonacorsi](#); [George Phillips](#); [Kyra Simon](#); [Tyler Stapleton](#)
Subject: HomeAdvisor - Docket No. 9407 / Sales Audio Files
Date: Tuesday, August 30, 2022 5:05:02 PM

Counsel,

In accordance with Chief Judge Chappell's August 16, 2022 order, HomeAdvisor has retrieved the requested archived sales audio recordings from May 1, 2019 through October 31, 2019. As previously explained, these files were retained in HomeAdvisor's now-legacy audio recording database, VPI, and in approximately October 2021 were moved into archival storage on full virtual machine backups within the Amazon Web Services Glacier database. In order to successfully restore the audio, the files first needed to be extracted from Glacier and imported back into the VPI database where they originally were stored in their proprietary VP2 file format and through which they are capable of being accessed.

In light of the above, we have created a virtual VPI machine for the FTC within which it can view, listen to, and download files as needed in .WAV or VP2 format. This virtual machine contains an instance of VPI that currently houses the requested sales call recordings, along with other data associated with those recordings, including the representative's name, date, and the length of the call.

To access the virtual machine:

- Navigate to vpn.angi.com.
- Login with the following credentials:
 - **User:** [REDACTED]
 - **Password:** [REDACTED]
- Set up multi-factor authentication as prompted following login.

Once connected, click on the VPI icon on the desktop and again login with the credentials above.

Please note that because you will be logging into the legacy VPI database, the VPI interface will show icons for all of the audio recordings previously housed in VPI that took place during the requested time period, including both customer care and sales calls. However, **only** responsive sales call audio files have been re-populated into VPI. Thus, while the records for non-responsive calls will still populate in the database, they will have no associated audio. As stated above, you will be able to sort by date and listen to the sales call audio files directly within VPI. However, should you wish to export files from the database, you may access the export function from the "actions" menu.

Regards,
Neil

Neil Phillips

Associate

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7651 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
neilphillips@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

EXHIBIT E

From: Calderon, Sophie
Sent: Thursday, September 1, 2022 12:23 PM
To: Neil Phillips; Roos, Breena; MacDonald, Colin; Howe, Beth
Cc: JenniferBarrett-contact; Kathryn Bonacorsi; George Phillips; Kyra Simon; Tyler Stapleton
Subject: RE: HomeAdvisor - Docket No. 9407 / Sales Audio Files

Neil,

We were able to get past the two-factor login authentication but cannot access the VPN without downloading additional software (screenshot below). The required software has not been previously vetted and approved by our agency, which means that Complaint Counsel is barred from downloading that software absent special approval by the appropriate technology office. Furthermore, we have been informed that, due to federal government data security measures, the internal process of receiving approval to download this software to our devices, to the extent we receive it at all, can be quite delayed. While we are working to begin that approval process, please let us know when you are available today or tomorrow to discuss alternatives to how your client can make the ordered production so that Complaint Counsel can access the recordings immediately.

In the meantime, we view Respondent as currently in violation of the ALJ's August 16, 2022 order to produce documents responsive to RFP 14 within 14 days, given that Respondent did not produce the documents in the manner requested in the original Requests for Production (and indeed, the manner in which previous sales calls have been produced), nor did it seek Complaint Counsel's agreement regarding a new method of production in advance of the production deadline.

Best,
Sophie

VPN Portal

[Download Windows 32 bit GlobalProtect agent](#)

[Download Windows 64 bit GlobalProtect agent](#)

[Download Mac 32/64 bit GlobalProtect agent](#)

Windows 32 bit OS needs to download and install Windows 32 bit GlobalProtect agent.

Windows 64 bit OS needs to download and install Windows 64 bit GlobalProtect agent.

Mac OS needs to download and install Mac 32/64 bit GlobalProtect agent.

From: Neil Phillips <neilphillips@quinnemanuel.com>

Sent: Thursday, September 1, 2022 8:44 AM

To: Calderon, Sophie <scalderon@ftc.gov>; Roos, Breena <broos@ftc.gov>; MacDonald, Colin <cmacdonald@ftc.gov>; Howe, Beth <mhowe@ftc.gov>

Cc: JenniferBarrett-contact <jenniferbarrett@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbbonacorsi@quinnemanuel.com>; George Phillips <georgephillips@quinnemanuel.com>; Kyra Simon <kyrasimon@quinnemanuel.com>; Tyler Stapleton <tylerstapleton@quinnemanuel.com>

Subject: RE: HomeAdvisor - Docket No. 9407 / Sales Audio Files

Sophie,

HomeAdvisor's technical team is concerned that removing the two-factor login authentication would expose the recordings and any PII or other sensitive service provider information they contain to an unnecessary security risk. Multi-factor authentication is a standard method of accessing secure data, and one HomeAdvisor insists that its employees utilize (just as we do at Quinn Emanuel to log into our servers). What technology does the FTC typically use to handle two-factor authentication? If helpful, we can convene a Zoom with HomeAdvisor's technical team to walk you through the login process and any potential workaround that may exist.

Regards,
Neil

From: Neil Phillips

Sent: Wednesday, August 31, 2022 4:41 PM

To: Calderon, Sophie <scalderon@ftc.gov>; Roos, Breena <broos@ftc.gov>; MacDonald, Colin <cmacdonald@ftc.gov>; Howe, Beth <mhowe@ftc.gov>

Cc: Jennifer Barrett <jenniferbarrett@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; George Phillips <georgephillips@quinnemanuel.com>; Kyra Simon <kyrasimon@quinnemanuel.com>; Tyler Stapleton <tylerstapleton@quinnemanuel.com>

Subject: RE: HomeAdvisor - Docket No. 9407 / Sales Audio Files

Sophie,

We are reviewing this issue now with HomeAdvisor's technical personnel to provide Complaint Counsel with access to the VPI database as soon as possible given that you cannot download the two-factor authentication security software. To be clear, however, we have complied with Judge Chappell's order and produced the requested audio files yesterday as stored in their ordinary course within the VPI database that created and housed the files in their proprietary VPI VP2 file format prior to archiving. We will provide you with an update on the access process promptly.

Regards,
Neil

From: Calderon, Sophie <scalderon@ftc.gov>

Sent: Wednesday, August 31, 2022 3:28 PM

To: Neil Phillips <neilphillips@quinnemanuel.com>; Roos, Breena <broos@ftc.gov>; MacDonald, Colin <cmacdonald@ftc.gov>; Howe, Beth <mhowe@ftc.gov>

Cc: Jennifer Barrett <jenniferbarrett@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; George Phillips <georgephillips@quinnemanuel.com>; Kyra Simon <kyrasimon@quinnemanuel.com>; Tyler Stapleton <tylerstapleton@quinnemanuel.com>

Subject: RE: HomeAdvisor - Docket No. 9407 / Sales Audio Files

[EXTERNAL EMAIL from scalderon@ftc.gov]

Neil,

We cannot access the virtual VPI machine (I've provided screenshots below of what we see – we cannot download the app to our mobile devices). Please immediately produce the responsive calls, as ordered by Judge Chappell.

Best,
Sophie

Angi

Set up multifactor authentication

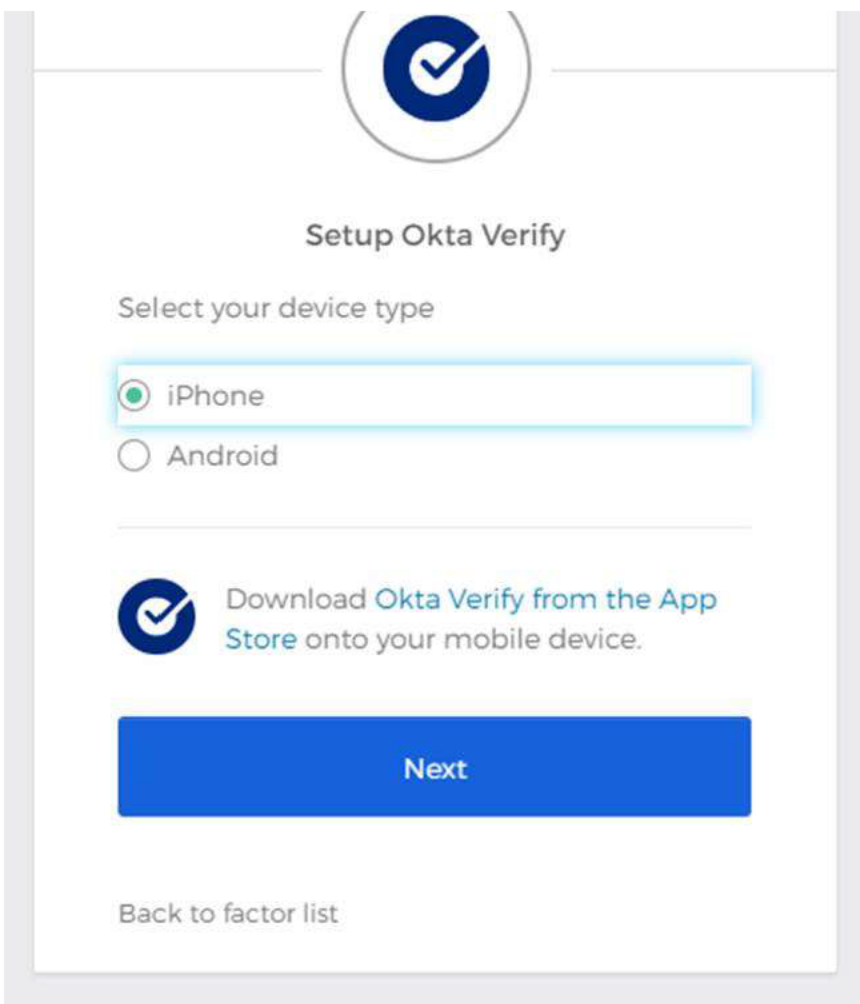
Your company requires multifactor authentication to add an additional layer of security when signing in to your Okta account

Setup required

- Okta Verify**
Use a push notification sent to the mobile app.
- SMS Authentication**

Configure factor

Angi



From: Neil Phillips <neilphillips@quinnemanuel.com>

Sent: Tuesday, August 30, 2022 5:05 PM

To: Calderon, Sophie <scalderon@ftc.gov>; Roos, Breena <broos@ftc.gov>; MacDonald, Colin <cmacdonald@ftc.gov>; Howe, Beth <mhowe@ftc.gov>

Cc: JenniferBarrett-contact <jenniferbarrett@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; George Phillips <georgephillips@quinnemanuel.com>; Kyra Simon <kyrasimon@quinnemanuel.com>; Tyler Stapleton <tylerstapleton@quinnemanuel.com>

Subject: HomeAdvisor - Docket No. 9407 / Sales Audio Files

Counsel,

In accordance with Chief Judge Chappell's August 16, 2022 order, HomeAdvisor has retrieved the requested archived sales audio recordings from May 1, 2019 through October 31, 2019. As previously explained, these files were retained in HomeAdvisor's now-legacy audio recording database, VPI, and in approximately October 2021 were moved into archival storage on full virtual machine backups within the Amazon Web Services Glacier database. In order to successfully restore the audio, the files first needed to be extracted from Glacier and imported back into the VPI database where they

originally were stored in their proprietary VP2 file format and through which they are capable of being accessed.

In light of the above, we have created a virtual VPI machine for the FTC within which it can view, listen to, and download files as needed in .WAV or VP2 format. This virtual machine contains an instance of VPI that currently houses the requested sales call recordings, along with other data associated with those recordings, including the representative's name, date, and the length of the call.

To access the virtual machine:

- Navigate to vpn.angi.com.
- Login with the following credentials:
 - **User:** [REDACTED]
 - **Password:** [REDACTED]
- Set up multi-factor authentication as prompted following login.

Once connected, click on the VPI icon on the desktop and again login with the credentials above.

Please note that because you will be logging into the legacy VPI database, the VPI interface will show icons for all of the audio recordings previously housed in VPI that took place during the requested time period, including both customer care and sales calls. However, **only** responsive sales call audio files have been re-populated into VPI. Thus, while the records for non-responsive calls will still populate in the database, they will have no associated audio. As stated above, you will be able to sort by date and listen to the sales call audio files directly within VPI. However, should you wish to export files from the database, you may access the export function from the "actions" menu.

Regards,
Neil

Neil Phillips
Associate
Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7651 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
neilphillips@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2022, I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification of such filing to:

April Tabor
Office of the Secretary
Federal Trade Commission
Constitution Center
400 Seventh Street, SW, Suite 5610
Washington, D.C. 20024
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that on September 14, 2022, I caused the foregoing document to be served via email to:

William A. Burck
Dawn Y. Yamane Hewett
Kyra R. Simon
Quinn Emanuel Urquhart & Sullivan, LLP
1300 I Street NW, 9th Floor
Washington, DC 20005
(202) 538-8000
williamburck@quinnemanuel.com
dawnhewett@quinnemanuel.com
kyrasimon@quinnemanuel.com

Stephen R. Neuwirth
Jennifer J. Barrett
Neil T. Phillips
George T. Phillips
Jared Ruocco
Kathryn D. Bonacorsi
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000
stephenneuwirth@quinnemanuel.com
jenniferbarrett@quinnemanuel.com
neilphillips@quinnemanuel.com
georgephillips@quinnemanuel.com
jaredruocco@quinnemanuel.com
kathrynbonacorsi@quinnemanuel.com

Counsel for Respondent HomeAdvisor, Inc.

Dated: September 14, 2022

By: s/ Sophia H. Calderón
Sophia H. Calderón

Counsel Supporting the Complaint